

CLEAN WATER ACT2-52-B. Class II Administrative Penalty: Agency Representation in Hearings; Initiating Internal Appeals of Adverse Determinations; and Representing Agency in Appeals Under Section 309(g) and 311(b) of the Clean Water Act1. **AUTHORITY.**

- a. To represent the U.S. Environmental Protection Agency in Class II civil penalty adjudications conducted under sections 309(g) and 311(b) of the Clean Water Act;
- b. To initiate internal agency appeals from orders, rulings or decisions under sections 309(g) and 311(b) of the CWA; and
- c. To represent the agency in internal appeals from orders, rulings, or decisions entered in administrative proceedings under sections 309(g) and 311(b) of the CWA, whether or not initiated by the agency, and in proceedings initiated by commenters under section 309(g)(4)(C) of the CWA.

2. **TO WHOM DELEGATED.** Regional counsel.3. **LIMITATIONS.**

- a. Any official exercising this authority shall consult with the general counsel before exercising authority 1.b.
- b. Any official exercising this authority must obtain concurrence from the assistant administrator for the Office of Enforcement and Compliance Assurance and the director, Enforcement and Compliance Assurance Division or designee before initiating an appeal.
- c. Any official exercising this authority shall consult with the AA for OECA and the ECAD director or designee whenever not recommending an appeal of an adverse decision.

4. **REDELEGATION AUTHORITY.**

- a. Authorities 1.a. and 1.c. may be redelegated to any agency attorney.
- b. Authority 1.b. may be redelegated to the branch chief level, or equivalent, and no further.
- c. An official who redelegates an authority retains the right to exercise or withdraw the authority. Redelegated authority may be exercised by any official in the chain of command down to the official to whom it has been specifically redelegated.

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5. **ADDITIONAL REFERENCES.**

- a. 40 C.F.R. Part 22.
- b. EPA Delegations 1-37 (Hearings) and 1-38A (Administrative Proceedings).



Debra H. Thomas
Acting Regional Administrator

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Date